Supreme Court, U.S.
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NO. 98-42

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In The
Supreme Court of the United States
October, Term, 1997

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IN RE MRS. ELLA LOUISE STEWART WOOTEN,
Petitioner,

v.

MISSISSIPPI, ET AL
Respondents.

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On Petition For Writs of Mandamus
And Prohibition
To The Mississippi Supreme Court

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Petitioner's Supplemental Brief

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QUESTIONS PRESENTED

I. WHETHER MISSISSIPPI DIVORCE AND MARITAL SEPARATION VIOLATES SUBSTANTIAL DUE PROCESS AND IS THEREFORE UNCONSTITUTIONAL.

II. WHETHER AS APPLIED IN THIS CASE MISSISSIPPI DIVORCE AND MARITAL SEPARATION DOES NOT APPLY TO BLACK MARRIAGES.

III. WHETHER AS INTERPRETED BY THE MISSISSIPPI COURT OF APPEALS SECTIONS ON MISSISSIPPI DIVORCE AND MARITAL SEPARATION IS REALLY A CONCLUSIVE PRESUMPTION, AND THUS, VIOLATES DUE PROCESS AND PROVIDES STATUTORY DAMAGES AND INTEREST.

IV. WHETHER APPLYING A PATERNITY FORM OF INSTRUCTION VIOLATES DUE PROCESS.

LIST OF PARTIES TO THE PROCEEDING IN THE COURT WHOSE JUDGMENT IS SOUGHT TO BE REVERSED

All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

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I. THE UNITED STATES SUPREME COURT HAS JURISDICTION. 28 U.S.C. § 1651 states in pertinent part:

> (a) The Supreme Court and all courts established by Act of Congress may issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law.

This case involves the validity of several state statutes on the grounds of all of them being disagreeable to the Constitution. I assert that Mississippi Divorce and Marital Separation and Mississippi Corrected Withholding Order is unconstitutional as it was applied in this case.

This issue was first raised by me in the trail court, to show evidence that child support payments against me was not a legitimate issue on the cause, when there was no legal divorce or legal separation or an agreed order for my husband to feel like and think that I owed him child support. It later overruled my objection, and dismissed with prejudice. (App. 27).

Respondent prevailed in the trail court. I appealed.

In a Petition for Rehearing to the court, whatever I said, was in good faith to put an end to the illegal take-over of my children (Apps. 53, 54) and that forced my separation away from my children and home (Apps. 56, 57) for statutory damages and interest (App. 15) not to be the same kind of payments as child support (App. 30) and not an award in Mississippi chancery courts to the child support agency. My Petition for Rehearing was denied. (App. 16).

Later, I brought a Petition for Review in the Mississippi Supreme Court, alleging misconduct, fraud, misrepresentation as well as due process and civil rights violations. The Mississippi Supreme Court denied review because I failed to show good cause for untimeliness. (Apps. 24, 25).

The jurisdiction of the United States Supreme Court does not depend on whether the state court

addressed the federal question or whether I failed to express myself properly in a timely manner. Without an attorney, it is enough that I tried every thing, before coming to this Court, to get state officials and others to see that they were then and are still violating my civil rights. Furthermore, when the Mississippi Supreme Court denies a Petition for Review, it is to be assumed that the court has been given fair opportunity to review the merits of my claim, for purposes of exhaustion of state court remedies. The issues of meaningful state participation of malicious and willful misconduct on the cause, to interfere with my rights to be with my children at my marital home, for expecting me to stay away from my children and home and pay child support to my husband, has been raised, preserved and passed upon by the Mississippi Supreme Court.

I sought many times for a writ of certiorari and I failed all those times to respect the Rules of this Court, without having to know that I

was seeking the wrong writ.

This court has jurisdiction under 28 U.S.C. § 1651(a) because I exhausted all of my state court remedies on the issues raised by this petition.

II. THE STATE COURT'S DECISION FOR STATUTORY DAMAGES AND INTEREST PAYMENTS IS VALID IF, AND ONLY IF, ALL OF MISSISSIPPI STATUES FOR CHILD SUPPORT PAYMENTS IS INVALID. The court's invoked Mississippi Divorce §93-5-1(9). (Apps. 2). This statute is one of the twelve (12) causes to put a legal end to a marriage, and this statute shifted the burden of proof onto me to prove that it must be heard by a judge and not approved between attorneys. State's divorce showed things to be wrong, for me to be the non-custodial parent away from my children and home and be burden with child support payments, but did not show me how to correct them or what to do. Such as, there is only one type of divorce in Mississippi, the absolute divorce and termination

of the marital status. § 3-2 History of divorce in Mississippi. And its dissolution cannot not be wished or agreed upon between the attorneys on the cause. (App. 48). § 3-1 Nature of divorce proceedings. Equal owners to all and any mixed property but no determination was made as to which parent had possession of real property (Apps. 45, 46) and equal custody of children were given and responsibility of the children were not shared by both parents and neither parent assumes custody of their children for a fixed period, such as for six months or for the school year or for the summer vacation (App. 47) and rights of visitation were with a paternity and maternity form (App. 48) but no determination was made as to which parent was the non-custodial parent.

The court's invoked Mississippi Marital Separation § 2-6. (Apps. 15). This statute shifted the burden of proof onto me to prove that I was not the dead wife and mother, as the

State's divorce had expected for my husband and his bigamy marriage to another woman could enjoy my estate. (App. 56). State's marital separation showed things to be wrong, for me to be the non-custodial parent away from my children and home and burden me with child support payments, but did not show me how to correct them or what to do. Such as, the awarding of my estate to my husband (App. 32) and the collection and holding of my tax refund for EIC before my death (Apps. 36, 37). Mississippi Marital Separation, § 2-6 Other legal consequences of separation, is based on the right to live together in the same domicile, to eat at the same table, and to participate together in the activities, duties and responsibilities necessary to make a home for a legitimate family unit. (Apps. 35, 36). Where a third party willfully interferes with these rights, he/she deprives either the husband or the wife of the reciprocal marital benefits and creates a right to damages in the aggrieved

spouse. (Apps. 37, 48, 66).

The court's invoked Mississippi Collection of Child Support Payments and Delinquency Procedures. §§ 43-19-35,93-11-105. (App. 12). This statute shifted the burden of proof onto me to prove that I did not owe delinquency and current child support payments for the child support agency to use degrading means for funds and it also would be inappropriate for any employer to withhold child support from my pay. State's corrected withholding order showed things to be wrong, for me to be the non-custodial parent away from my children and home and burden me with current and delinquency child support payments, and did show me how to correct it and what to do. Such as, there was no current and delinquency child support payments against me beginning August 1, 1993 (Apps. 29, 30) because there was no valid Mississippi Withholding Order against me beginning August 1, 1993. (App. 86). So, there was then and is still no delinquency

and current order imposed upon me to pay child support payments for any employer to withhold from my paycheck and for intercepting my tax refunds. (Apps. 70, 82).

The court's decision for statutory damages and interest is valid if, and only if, all of Mississippi Statues for child support payments is invalid. If all of Mississippi Statues is found to be unconstitutional, the decision for child support payments against me cannot stand. There is no adequate, independent state ground for the state court's decision for child support payments to remain valid. And the court's agrees that a court was wrong to burden me with child support payments with a paternity form (App. 31) by invoking Mississippi statutory damages and interest with a maternity form (App. 15). Statutory damages is a lump sum payment beyond a 10-year period. Payment of a principal sum over a period of more than 10 years may be treated as deductible periodic payments to the extent

of 10 percent of the lump sum. 26 U.S.C. § 71(c)(2)(1976). Whereas statutory damages cannot be applied to the periodic payments of alimony and child support because such payments are on a monthly basis over a substantial period of time. 429 So. 2d at 920 (1983).

CONCLUSION

Since the docketing of this petition for both extraordinary writs, a pack has been made to put me in an even worse situation, on the street. I am having to pay one-sixth rent, 100% utilities, and $26.25 a week for child support is being taken. I was denied credit at my bank because of unpaid medical bills and two months late paying my husband's mortgage note and child support was being deducted from my paycheck, long before I had notice of such action. My children are having to take-on an adult role, by cutting grass and baby-sitting

to provide food and clothes and school supplies for themselves, when they should be in summer programs and activities.

The only jobs I have been able to get with a B.S. degree in computer science, have been low-paying jobs that requires no degree. Such as sorting mail, cleaning filthy apartments and trashy ground, and working in a greasy kitchen. Which has been better than no job at all for keeping my family (children and husband) together as the legitimate "Wootens" on my federal and state taxes. (Apps. 79, 84).

This case (among state officials and others) presents no concerns for my children and my life at all in several statues invoked on the cause, as unconstitutional as well as due process and civil rights violations in Mississippi. I respectfully request this Court to grant all writs necessary and/or appropriate to restore my life with my children at my marital domicile as the legitimate wife and mother.

MRS. ELLA LOUISE STEWART WOOTEN

BY Mrs. Ella Louise Stewart Wooten

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